THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11790 of 2006

ORAL ORDER:

This writ petition is filed seeking Certiorari to call for the records in connection with the orders passed in Revision Case No.3/2005-S7 dated 25.8.2005 by the first respondent, whereunder the orders passed by the second respondent confirming the orders of the third respondent, were confirmed and the revision was dismissed.

It appears, petitioner is a fair price shop dealer of Potluru village, Savalyapuram mandal, Guntur district. While so, his authorization was cancelled by the third respondent vide order dated 11.2.2003 for certain irregularities purported to have been committed by the petitioner. Aggrieved by the same, petitioner carried the matter in appeal before the second respondent. The second respondent vide order dated 7.10.2004 confirmed the orders passed by the third respondent. Aggrieved thereby, petitioner preferred revision before the first respondent and the first respondent by impugned order dated 25.8.2005 dismissed the revision confirming the orders passed by the respondents 2 and 3. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that except relying on the report of the fourth respondent-Mandal Revenue Officer, Savalyapuram Mandal, Guntur district, no enquiry as such has been conducted into the charges levelled against the petitioner, and therefore, the impugned order passed by the third respondent as confirmed by the second respondent and further confirmed by the first respondent are arbitrary, illegal and in gross violation of principles of natural justice and the same are liable to be set aside.

The learned Government Pleader appearing for respondents submitted that there is no necessity of conducting any detailed enquiry

into the matter and the report submitted by the fourth respondent is sufficient. In fact charge sheet was issued and explanation was called for from the petitioner. When the authorities did not satisfy with the explanation submitted by the petitioner, the impugned order was passed, hence, no interference is called for by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

A bare look at the order passed by the third respondent does not indicate that any enquiry was conducted as required under law to hold the petitioner guilty of the charges framed against him. The report of the fourth respondent dated 4.10.2002 does not show as to any enquiry was conducted in the presence of the petitioner and he was given any opportunity to cross-examine the witnesses, who spoke before the fourth respondent. Further, it is not the fourth respondent who conducted enquiry into the matter, it is the Mandal Revenue Inspector, who conducted the purported enquiry and submitted report to the fourth respondent and in turn, the fourth respondent submitted the same to the third respondent, and the third respondent has taken the said report as gospel truth and passed the impugned, which was confirmed by the respondents 1 and 2. No enquiry has been conducted to prove the charges framed against the petitioner. Only by placing reliance on the mere report of the Mandal Revenue Inspector, the third respondent passed the cancellation order. The third respondent-Revenue Divisional Officer is supposed to conduct a detailed enquiry into the matter in examining the report of the Mandal Revenue Officer/Mandal Revenue Inspector as well as the witnesses/cardholders who gave evidence in the purported enquiry conducted by the Mandal Revenue Inspector, but such exercise was not undertaken by the third respondent before passing the order dated 11.2.2003. Therefore, I am of the opinion that the order

passed by the third respondent dated 11.2.2003 is in gross violation of principles of natural justice and therefore, the same is liable to be set aside.

However, the learned counsel for petitioner states that the petitioner was acquitted in the criminal case launched against him, in which the evidence of Mandal Revenue Inspector as P.W.2 was recorded. Since the prosecution failed to prove the guilt, the petitioner was acquitted.

In the result, the writ petition is allowed and the order passed by the third respondent dated 11.2.2003 as confirmed by the second respondent by order dated 7.10.2004 and further confirmed by the first respondent by order dated 25.8.2005 are set aside. The matter is remitted back to the third respondent for fresh consideration as per law, after putting the petitioner on notice. The third respondent shall also take into consideration as to acquittal of the petitioner in the criminal case while considering the matter afresh. No order as to costs.

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C.V.RAMULU, J

Date: 8.12.2006
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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11790 of 2006

8.12.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11790 of 2006

Date: 8th December, 2006

Between:

Ponduri Ramaiah

.. Petitioner

And

The District Collector,
Guntur, Guntur district & others.

.. Respondents